

24th September 1955]

APPENDIX.

[Vide item III (4) on page 294 supra.]

THE CODE OF CRIMINAL PROCEDURE (MADRAS
AMENDMENT) BILL, 1955 (L.A. BILL No. 27 OF 1955).

Composition of the Joint Select Committee,

CHAIRMAN :

1 SUBRAMANIAM, Hon. Sri C.

MEMBERS :

- 2 BHAKTAVATSALAM, Hon. Sri M.
- 3 BHASHYAM, Sri K.
- 4 BHASHYAM AYYANGAR, Sri V.
- 5 BALASUBRAMANIA AYYAR, Sri K.
- 6 FERNANDEZ, Sri W. J.
- 7 GAJAPATHY NAYAGAR, Sri A.
- 8 GOPALAN, Sri K. P.
- 9 GOPALA GOUNDER, Sri V.
- 10 GURUNANDAN ROW, Sri V.
- 11 JAGANNATHAM, Sri H. M.
- 12 JEEVANANDAM, Sri P.
- 13 JOHN, Sri V. K.
- 14 KOLKEBAIL, Sri S. S.
- 15 KRISHNA AYYAR, Sri V. R.
- 16 KRISHNASWAMI AYYANGAR, Sri P. S.
- 17 KUNHI MUHAMED SHAFEE, Sri K.
- 18 KUTTYKRISHNAN NAYAR, Sri K. P.
- 19 MANJAYA SHETTY, Sri Y.
- 20 NARAYANASWAMI PILLAI, Sri T. M.
- 21 RAMAKRISHNA AYYAR, Sri N.
- 22 SELVARAJ, Sri P.
- 23 THANGAVELU, Sri S. P.
- 24 VENKATARAMA AYYAR, Sri S.

SECRETARIAT :

1 Sri T. HANUMANTHAPPA, B.A. (Hons.), B.L.,

Secretary to the State Legislature.

2 Sri G. M. ALAGARSAMY, B.A., B.L.,

Assistant Secretary to the State Legislature.

[24th September 1955]

REPORT OF THE JOINT SELECT COMMITTEE ON THE CODE OF CRIMINAL PROCEDURE (MADRAS AMEND- MENT) BILL, 1955 (L.A. BILL No. 27 OF 1955).

To

THE HONOURABLE THE LEGISLATIVE ASSEMBLY,
MADRAS.

The Joint Select Committee appointed to consider the Code of Criminal Procedure (Madras Amendment) Bill, 1955 (L.A. Bill No. 27 of 1955), has the honour to make the following report.

2 The Bill was published in Part IV-A of the *Fort St. George Gazette* in English on the 10th August 1955 and in the other regional languages in the *Fort St. George Gazette*, dated 17th August 1955.

3. The Joint Select Committee was appointed by resolutions of the Assembly, dated 25th August 1955, and of the Council, dated 26th August 1955.

4. The Joint Select Committee met in the Committee Room, Government Estate, Mount Road, on the 20th September 1955 for the consideration of the Bill.

5. Offences under the Indian Penal Code triable by a Court of Session in the mufassal are, if committed in the Presidency-town of Madras, triable by the High Court in the exercise of its original criminal jurisdiction with a different procedure. The present Bill seeks to eliminate this difference by establishing a separate Sessions Court for the Presidency-town of Madras.

6. The Committee has subjected the provisions of the Bill to a careful scrutiny and as a result of such scrutiny has made some changes in them. The more important among the changes are the following most of which have been necessitated consequent on the passing of the Code of Criminal Procedure (Amendment) Act, 1955 (Central Act No. 26 of 1955), by Parliament:—

Clause 6.

Section 198-B of the Code of Criminal Procedure, 1898 (Central Act V of 1898), provides for two different forms of trial for defamation cases in respect of the Presidency-town and the mufassal. This anomaly has been set right by this clause.

The Committee has also accepted other amendments of a consequential nature to sections 207-A, 217, 321, 322, 325, 326, 332, 411-A and 435 (1).

Clause 12.

This clause deals with section 213 of the Code of Criminal Procedure, 1898 (Central Act V of 1898), regarding the order of commitment by a Magistrate. The Committee feels that it is not necessary to retain the words within brackets "unless the Magistrate is a Presidency Magistrate" in sub-section (1). The clause has been suitably amended to make provision for this.

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Clause 23.

This clause has been retained with the omission of the words "before such court" occurring in section 296 so as to make it applicable to all Sessions Courts.

Clause 45.

The Committee is of the opinion that the words "other than the Court of a Presidency Magistrate" occurring in section 526 (2) of the Code of Criminal Procedure may be deleted.

Certain minor changes of a drafting nature appear in the Bill annexed hereto. The existing clauses and the newly added clauses have been suitably renumbered.

7. All the changes made by the Select Committee are indicated in the annexed Bill.

8. The Committee considers that the changes made by it in the Bill are not of such importance as to necessitate the republication of the Bill.

9. Dissenting minutes given by some Members are appended.

GOVERNMENT ESTATE,
MOUNT ROAD, MADRAS-2,
22nd September 1955.

C. SUBRAMANIAM,
Chairman.

ANNEXURE.

[NOTE.—The changes made are sidelined or underlined and portions omitted are indicated by dots.]

L.A. BILL No. 27 OF 1955.

A Bill further to amend the Code of Criminal Procedure, 1898, in its application to the State of Madras.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (Central Act V of 1898), in its application to the State of Madras for the purposes hereinafter appearing;

BE it enacted in the Sixth Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Code of Criminal Procedure (Madras Amendment) Act, 1955.

(2) It extends to the whole of the State of Madras.

(3) It shall come into force on such date as the State Government may, by notification in the *Fort St. George Gazette*, appoint.

2. *Amendment of section 4, Central Act V of 1898.*—In section 4, sub-section (1), of the Code of Criminal Procedure, 1898 (Central Act V of 1898) (hereinafter referred to as the said Code)—

(a) clause (e) shall be omitted;

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(b) in clause (t), the words "and any person conducting a prosecution on behalf of Government in any High Court, in the exercise of its original criminal jurisdiction" shall be omitted.

3. Amendment of section 7, Central Act V of 1898.—In section 7 of the said Code—

(a) in sub-section (1), the brackets and words " (excluding the presidency-towns) " shall be omitted;

(b) after sub-section (1), the following sub-section shall be inserted, namely :—

" (1A) For the purposes of this Code, the Presidency-town of Madras shall be a sessions division."

4. Substitution of new heading for heading C in Chapter II, Central Act V of 1898.—In Chapter II of the said Code, for the heading " C—Courts and Offices outside the Presidency-towns ", the heading " C—Court of Session for the Presidency-town of Madras and Courts and Offices outside the Presidency-town of Madras " shall be substituted.

5. Amendment of section 29, Central Act V of 1898.—In section 29 of the said Code,—

(a) to sub-section (1), the following proviso shall be added, namely :—

' Provided that where the Court so mentioned is the High Court, it shall observe in the trial of such offence the same procedure which a Court of Session would observe if it were trying that case.'";

(b) in sub-section (2), the words " by the High Court or " shall be omitted.

6. Amendment of section 198-B, Central Act V of 1898.—In section 198-B of the said Code, sub-clause (12) shall be omitted.

7. Amendment of heading in Chapter XVIII, Central Act V of 1898.—In Chapter XVIII of the said Code, in the heading, the words " OR HIGH COURT " shall be omitted.

8. Amendment of section 206, Central Act V of 1898.—In section 206 of the said Code—

(a) in sub-section (1), the words " or High Court " shall be omitted;

(b) sub-section (2) shall be omitted.

9. Amendment of section 207, Central Act V of 1898.—In section 207 of the said Code, the words " or High Court " shall be omitted.

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10. Amendment of section 207-A, Central Act V of 1898.—In section 207-A of the said Code—

(i) in the proviso to sub-section (9), the concluding portion beginning with the words “ and, where the accused ” and ending with the words “ to give evidence on such trial ” shall be omitted;

(ii) in sub-section (10), the words “ the High Court or ” and the words “ as the case may be ” shall be omitted;

(iii) in sub-section (11), the first proviso shall be omitted and in the second proviso the word “ also ” occurring after the word “ Provided ” shall be omitted;

(iv) in sub-section (12), the words “ or High Court ” in the two places where they occur shall be omitted;

(v) in sub-section (13), the words “ or High Court ” wherever they occur and the words “ as the case may be ” shall be omitted;

(vi) in sub-section (14), the words “ or where the commitment is made to the High Court to the Clerk of the State or other officer appointed in this behalf by the High Court ” shall be omitted; and

(vii) sub-section (15) shall be omitted.

11. Amendment of section 211, Central Act V of 1898.—In section 211, sub-section (2) of the said Code, the portion beginning with the words “ and where the accused ” and ending with the words “ on such trial ” shall be omitted.

12. Amendment of section 213, Central Act V of 1898.—In section 213, sub-section (1) of the said Code, the words “ the High Court or ” and the brackets and words “ (as the case may be) ” and “ unless the Magistrate is a Presidency Magistrate) ” shall be omitted.

13. Amendment of section 216, Central Act V of 1898.—In section 216 of the said Code—

(a) the first proviso shall be omitted;

(b) in the second proviso, the word “ also ” shall be omitted.

14. Amendment of section 217, Central Act V of 1898.—In section 217 of the said Code, in sub-section (1), the words “ or High Court ” in the two places where they occur shall be omitted and in sub-section (2), the words “ or High Court ” wherever they occur and the words “ as the case may be ” shall be omitted.

15. Amendment of section 218, Central Act V of 1898.—In section 218 of the said Code,—

(a) in sub-section (1), the words and brackets “ or (where the commitment is made to the High Court) to the Clerk of the State or other Officer appointed in this behalf by the High Court ” shall be omitted;

(b) sub-section (2) shall be omitted.

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16. Amendment of section 226, Central Act V of 1898.—In section 226 of the said Code, the words “or, in the case of a High Court, the Clerk of the State” shall be omitted.

17. Amendment of section 227, Central Act V of 1898.—In section 227, sub-section (1), of the said Code, the words “or High Court” shall be omitted.

18. Amendment of heading in Chapter XXIII, Central Act V of 1898.—In Chapter XXIII of the said Code, in the heading, the words “HIGH COURTS AND” shall be omitted.

19. Omission of sections 266, 267, 273 and 305, Central Act V of 1898.—Sections 266, 267, 273 and 305 of the said Code shall be omitted.

20. Amendment of section 274, Central Act V of 1898.—In section 274 of the said Code, sub-section (1) shall be omitted.

21. Amendment of section 276, Central Act V of 1898.—In section 276 of the said Code, clause *thirdly* of the proviso shall be omitted.

22. Amendment of section 277, Central Act V of 1898.—In section 277 of the said Code, the proviso to sub-section (2) shall be omitted.

23. Amendment of section 296, Central Act V of 1898.—In section 296 of the said Code, the words “before such Court” shall be omitted.

24. Omission of headings J and L and the provisions thereunder in Chapter XXIII, Central Act V of 1898.—In Chapter XXIII of the said Code, the headings “J.—List of Jurors for High Court, and summoning jurors for that Court” and “L.—Special provisions for High Courts” and the provisions thereunder, namely, sections 312 to 318 (both inclusive) and sections 333, 334 and 335 shall be omitted.

25. Amendment of section 321, Central Act V of 1898.—In section 321 of the said Code, in sub-section (1), after the words “Collector of the district”, the brackets and words “(or the Collector of Madras in the Presidency-town of Madras)” shall be inserted.

26. Amendment of section 322, Central Act V of 1898.—In section 322 of the said Code, after the words “in the Court-houses of the District Magistrate and of the District Court”, the words “or, as the case may be, of the Chief Presidency Magistrate and of the Sessions Court” shall be inserted.

27. Amendment of section 325, Central Act V of 1898.—In section 325 of the said Code, after the words “any district”, the brackets and words “(including the Presidency-town of Madras)” shall be inserted.

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and after the words "the Collector of such district", the brackets and words "(or the Collector of Madras in the Presidency-town of Madras)" shall be inserted.

28. Amendment of section 326, Central Act V of 1898.—In section 326 of the said Code, in sub-section (1), after the words "District Magistrate", the words "or in the Presidency-town of Madras, the Chief Presidency Magistrate" shall be inserted.

29. Amendment of section 332, Central Act V of 1898.—In section 332, sub-section (2), of the said Code, after the words "District Magistrate", the words "or in the Presidency-town of Madras, the Chief Presidency Magistrate" shall be inserted.

30. Amendment of section 337, Central Act V of 1898.—In section 337 of the said Code,—

(a) in sub-section (1), the words "High Court or" shall be omitted;

(b) in sub-section (2-A), the words "or High Court, as the case may be" shall be omitted.

31. Amendment of section 339-A, Central Act V of 1898.—In section 339-A, sub-section (1) (a), of the said Code, the words "High Court or" shall be omitted.

32. Amendment of section 341, Central Act V of 1898.—In section 341 of the said Code, the words "in the case of a Court other than a High Court" shall be omitted.

33. Amendment of section 344, Central Act V of 1898.—In section 344, sub-section (2), of the said Code, the words "by a Court other than a High Court" shall be omitted.

34. Amendment of section 347, Central Act V of 1898.—In section 347, sub-section (1), of the said Code, the words "or High Court" shall be omitted.

35. Amendment of section 348, Central Act V of 1898.—In section 348 of the said Code—

(a) in sub-section (1), the words "or High Court, as the case may be," shall be omitted;

(b) in sub-section (2), the words "or High Court" shall be omitted.

36. Amendment of sections 354 and 356, Central Act V of 1898.—In the marginal note to sections 354 and 356 of the said Code, the words "outside presidency-towns" shall be omitted.

37. Amendment of section 373, Central Act V of 1898.—For the marginal note to section 373 of the said Code, the marginal note "copy of finding and sentence to be sent to District Magistrate or Commissioner of Police" shall be substituted, and to section 373, the following proviso shall be added, namely:—

Provided that the Court of Session for the Presidency-town of Madras shall send such copy to the Commissioner of Police."

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38. Amendment of section 411-A, Central Act V of 1898.—In section 411-A of the said Code—

(i) in sub-section (1), the words “in the exercise of its original criminal jurisdiction” shall be omitted;

(ii) in sub-section (2), for the words “in the exercise of its original criminal jurisdiction”, the words “in a trial held by it” shall be substituted.

39. Amendment of section 435, Central Act V of 1898.—In section 435, sub-section (1), of the said Code, after the words “any Sessions Judge”, the words “other than the Sessions Judge in the City of Madras” shall be inserted.

40. Amendment of section 465, Central Act V of 1898.—In section 465, sub-section (1), of the said Code, the words “or a High Court” shall be omitted.

41. Amendment of section 469, Central Act V of 1898.—In section 469 of the said Code, the words “or High Court” in the two places where they occur and the words “as the case may be” shall be omitted.

42. Amendment of section 478, Central Act V of 1898.—In section 478, sub-section (1), of the said Code, the words “High Court or” wherever they occur and the words “as the case may be” shall be omitted.

43. Amendment of section 479, Central Act V of 1898.—In section 479 of the said Code, the words “High Court or” and the words “as the case may be” shall be omitted.

44. Amendment of section 487, Central Act V of 1898.—In section 487, sub-section (2), of the said Code, the words “or High Court” shall be omitted.

45. Amendment of section 526, Central Act V of 1898.—In section 526, sub-section (2), of the said Code, for the words and figures “from any Court other than the Court of a Presidency Magistrate, it shall, except as provided in section 267, observe”, the words “from any Court, it shall observe” shall be substituted.

46. Amendment of section 526-A, Central Act V of 1898.—In section 526-A, sub-section (1), of the said Code, for the words “try the case by jury”, the words “try the case in accordance with the same procedure which a Court of Session would observe if the case were to be tried by that Court” shall be substituted.

47. Amendment of section 539, Central Act V of 1898.—In section 539 of the said Code, the words “or the Clerk of the State” shall be omitted.

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48. Amendment of Schedule V, Central Act V of 1898.—In Schedule V to the said Code, in Form No. XXVIII,—

(a) under the heading “(I) CHARGES WITH ONE HEAD” in sub-paragraph (b) of the first paragraph, the brackets and words “(when the charge is framed by a Presidency Magistrate, for Court of Session substitute High Court)” shall be omitted;

(b) in paragraph (2) under the same heading, for the portion beginning with the words “with the intention of inducing” and ending with the words “assaulted such Member”, the following shall be substituted, namely :—

“with the intention of inducing or compelling the President of India, Governor or Rajpramukh of . . . State to refrain from exercising a lawful power as such President, Governor or Rajpramukh, assaulted such President, Governor or Rajpramukh”;

(c) the brackets and words “(or High Court)” wherever they occur shall be omitted;

(d) for the expression ^{High Court}
Magistrate occurring in the first paragraph under the heading “(II) CHARGE FOR THEFT AFTER PREVIOUS CONVICTION”, the expression “Magistrate” shall be substituted.

49. Transitory provision.—(1) Nothing in this Act shall affect any case or proceeding the trial of which had been commenced in the High Court before the date of the commencement of this Act and every such case or proceeding shall be tried, heard and disposed of as if this Act had not been passed.

(2) Subject to the provisions of sub-section (1) all other cases pending on the file of the High Court on the date of the commencement of this Act shall stand transferred to the Court of Session for the Presidency-town of Madras.

GOVERNMENT ESTATE, T. HANUMANTHAPPA,
MOUNT ROAD, MADRAS-2. *Secretary to the State Legislature.*
22nd September 1955.

APPENDIX.

DISSENTING MINUTES.

While we generally support the objects of the Bill, namely, to remove the Original Criminal Jurisdiction of the High Court by making Madras City into a Sessions Division and appointing a Sessions Judge who will try all Sessions Cases now being tried by a High Court Judge, we would however like to make the following observations :—

1. It may be noted that though the Criminal Procedure Code provides for the procedure to be followed in the trial of a Sessions Case by a High Court Judge in the exercise of Original Criminal

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Jurisdiction, yet the jurisdiction to try the Sessions Cases arising in Madras City is conferred not by the Code but by Letters Patent. We think that the Bill should have been framed in a simpler manner by providing that notwithstanding anything contained in the Criminal Procedure Code or any other enactment in force (which would include the Letters Patent) all cases triable by the Sessions Court outside the Presidency-town of Madras shall be triable by a Sessions Judge for Madras Division, which shall be a Sessions Division for the purposes of the Criminal Procedure Code. If this provision was incorporated, a few more provisions would have been sufficient, instead of every section in the Criminal Procedure Code dealing with the powers of the High Court exercising original criminal jurisdiction being amended.

2. If at all there is any justification for retaining the Original Criminal Jurisdiction of the High Court it would have been in the case of amendment to section 198 (B) of the Code as amended by Central Act XXVI of 1955, especially as the complainants in that section are either Heads of the State or Ministers or public officers and therefore it would have been better if the jurisdiction of the High Court had been retained.

3. The only other observation that we should like to make is that while depriving an accused person in Madras City of the privilege of being tried by a High Court Judge in a Sessions Case on the ground that it is a privilege which does not apply to the districts, we do not think it is justifiable that the right relating to appeals from Magistrates' Courts' judgment to the Sessions Courts should be denied to an accused person in Madras City. To-day the right of appeal from a Presidency Magistrate's Court judgment is to the High Court and only in cases where the sentence is more than six months' imprisonment or a fine which is more than Rs. 200, whereas in the districts except in summary cases, there is a right of appeal to the Sessions Judge from the conviction and sentence passed by any Magistrate. We think that especially in view of the fact that the Presidency Magistrates' Courts are Courts subordinate to the Sessions Court in this Bill, there can be no justification for not giving the right of appeal to the Sessions Court in specific terms, from a conviction by a Presidency Magistrate, where the sentence is less than six months or fine less than Rs. 200.

P. JEEVANANDAM.

MADRAS,

V. GURUNANDAN ROW.

21st September 1955.

V. R. KRISHNA IYER.

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PROCEEDINGS OF THE JOINT SELECT COMMITTEE ON
THE CODE OF CRIMINAL PROCEDURE (MADRAS
AMENDMENT) BILL, 1955.

Tuesday, 20th September 1955.

The Joint Select Committee met in the Committee Room, Legislators' Hostel (Old Buildings), Government Estate, Mount Road, at-11 a.m. on Tuesday, the 20th September 1955.

The following members were present :—

- 1 The Hon. Sri C. SUBRAMANIAM.
- 2 The Hon. Sri M. BHAKTAVATSALAM.
- 3 Sri N. RAMAKRISHNA IYER.
- 4 Sri K. P. KUTTIKRISHNAN NAIR.
- 5 Sri S. VENKATARAMA IYER.
- 6 Sri P. S. KRISHNASWAMI IYENGAR.
- 7 Sri H. M. JAGANNATHAM.
- 8 Sri P. SELVARAJ.
- 9 Sri P. JEEVANANDAM.
- 10 Sri KUNHI MUHAMED SHAFEE.
- 11 Sri V. GOPALA GOUNDER.
- 12 Sri V. R. KRISHNA IYER.
- 13 Sri K. BHASHYAM.
- 14 Sri V. BHASHYAM AYYANGAR.
- 15 Sri V. GURUNANDAN ROW.
- 16 Dr. V. K. JOHN.
- 17 Sri T. M. NARAYANASWAMI PILLAI.
- 18 Sri K. BALASUBRAMANIA AYYAR.
- 19 Sri A. GAJAPATHY NAYAGAR.

The Secretary to the State Legislature, the Secretary to Government, Law Department and the Joint Secretary, Home Department, were also present.

At the outset, the Hon. Sri C. Subramaniam, who was duly proposed by Sri H. M. Jagannatham and seconded by Sri P. Selvaraj, was elected Chairman of the Committee.

Dr. V. K. John wanted to know whether the object of the Government, viz., establishment of a separate Sessions Court for the Presidency-town of Madras, could not be achieved by a simple provision to the effect that a Sessions Court be constituted for the Presidency-town which would try all cases triable by the High Court in the exercise of its original criminal jurisdiction in the Presidency-town and that the procedure applicable to Sessions Courts in the mufassal would apply instead of an elaborate Bill like this.

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Sri K. Balasubramanya Ayyar stated that such a simple provision would not be sufficient as such amendment will not give jurisdiction to the Sessions Court if that was not mentioned in the Schedule to the Criminal Procedure Code.

Sri K. Bhashyam stated that when there was mention of the High Court in many of the sections of the Criminal Procedure Code elaborate amendments were necessary.

The Chairman pointed out that it was necessary to amend the relevant sections of the Criminal Procedure Code.

Sri V. Gurunandan Row wanted to know whether the State Legislature could take away the original jurisdiction of the High Court conferred by Letters Patent.

The Chairman pointed out that the Constitution was in force now and according to that the State Legislature had power to deal with administration of justice.

Sri K. Bhashyam stated that the jury system was working well in the City and it should be continued.

The Chairman stated that this matter may be considered when the relevant clause was taken up for discussion.

Sri K. Bhashyam stated that with reference to the recent Central Amendment made to section 269 of Criminal Procedure Code the Judge should not be given discretion to decide the cases to be tried by him and that the existing system under which the jury system applies to all cases should be continued.

The Chairman pointed out that the State Government had power to notify cases which should be tried by the Judge with the aid of jurors and the point raised by the member would be considered at the time of notification.

Sri K. Bhashyam wanted to know how the Sessions Court in the Presidency-town was to be set up.

The Chairman stated that two Judges of the City Civil Court will be appointed as Sessions and Additional Sessions Judges.

Dr. V. K. John wanted to know whether the Government had examined the powers of the Legislature to amend the procedure of the High Court in criminal case with reference to item 3 of the State List and Article 225 of the Constitution.

The Chairman stated that the matter had been examined and expert opinion had been taken and the procedure now adopted was the correct procedure.

The Bill was then considered clause by clause.

Clause 1 was adopted.

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Clause 2.—Sri K. Bhashyam wanted to know what procedure would be adopted when cases under section 526 were transferred to the High Court if the reference to “Clerk of the State” was omitted.

The Chairman pointed out that no special provision was necessary as the procedure obtaining in civil cases would apply to such cases also.

Clause 2 was adopted.

Clause 3.—Sri K. Balasubramanya Ayyar wanted to know whether the term Presidency-town should not be changed.

The Law Secretary pointed out that the term had been used in various enactments and has also been defined in the General Clauses Act.

The Chairman stated that when the general question of revision was taken up such matters might be examined.

Clause 3 was adopted.

Clauses 4 and 5 were adopted.

Clause 5-A.—The Chairman proposed the following amendment :—

After clause 5, insert the following as clause 5-A :—

“5-A. Amendment of section 198-B, Central Act V of 1898.—In section 198-B of the said Code, sub-section (12) shall be omitted.”

Sri V. Gurunandan Row wanted this provision relating to defamation in the Presidency-town to be retained.

The Chairman stated that there should not be any difference and the procedure should be the same both in the mufassal and the Presidency-town.

Clause 5-A was adopted.

Clauses 6 to 8 were adopted.

Clause 8-A.—The Chairman proposed the following new clause :—

After clause 8, insert the following as clause 8-A :—

“8-A. Amendment of section 207-A, Central Act V of 1898.—In section 207-A of the said Code—

(i) in the proviso to sub-section (9), the concluding portion beginning with the words ‘and, where the accused’ and ending with the words ‘to give evidence on such trial’ shall be omitted;

(ii) in sub-section (10), the words ‘the High Court or’ and the words ‘as the case may be’ shall be omitted;

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(iii) in sub-section (11), the first proviso shall be omitted and in the second proviso the word 'also' occurring after 'provided' shall be omitted;

(iv) in sub-section (12), the words 'or High Court' in the two places where they occur shall be omitted;

(v) in sub-section (13), the words 'or High Court' wherever they occur and the words 'as the case may be' shall be omitted;

(vi) in sub-section (14), the words 'or where the commitment is made to the High Court, to the Clerk of the State or other officer appointed in this behalf by the High Court' shall be omitted; and

(vii) sub-section (15) shall be omitted."

Clause 8-A was adopted.

Clause 9 was adopted.

Clause 10.—Sri V. Gopala Gounder suggested that the words within brackets "unless the Magistrate is a Presidency Magistrate" occurring in section 213 (1) should be deleted.

The amendment was carried.

It was decided that any consequential amendments that might be necessary might also be examined and provided for in the Bill.

Clause 10 as amended was adopted.

Clause 11 was adopted.

Clause 12.—The Chairman proposed the following amendment:—

For clause 12 substitute the following:—

"12. *Amendment of section 217, Central Act V of 1898.*—In section 217 of the said Code in sub-section (1), the words 'or High Court' in the two places where they occur, shall be omitted and in sub-section (2), the words 'or High Court' wherever they occur and the words 'as the case may be' shall be omitted."

The amendment was carried.

Clause 12 as amended was adopted.

Clauses 13 to 16 were adopted.

Clause 17.—The Chairman stated that the State Government had power under section 269 (1) to notify which cases should be tried by jury. He had no objection to retain this system of trial by jury in the City of Madras in the initial stages as a trial measure and that the Government must have powers to review it from time to time. Sri K. Balasubramanya Ayyar pleaded for the retention of section 273, or for it to be made applicable to all Sessions Courts but it was not agreed to by the Committee.

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Clause 17 was adopted.

Clauses 18 to 20 were adopted.

Clause 21.—Sri K. Baiasubramanya Ayyar suggested that the section concerned (section 296) might be retained with the omission of the words “before such Court”.

The amendment was agreed to.

Clause 21 as amended was adopted.

Clauses 22 and 23 were adopted.

Clause 24.—The Chairman proposed the following amendment :—

Omit clause 24 and substitute the following clauses :—

“ 24. *Amendment of section 321, Central Act V of 1898.*—In section 321 of the said Code, in sub-section (1), after the words ‘Collector of the district’, the brackets and words ‘(or the Collector of Madras in the Presidency-town of Madras)’ shall be inserted.

24-A. *Amendment of section 322, Central Act V of 1898.*—In section 322 of the said Code, after the words ‘in the court-houses of the District Magistrate and of the District Court’, the words ‘or, as the case may be, of the Chief Presidency Magistrate and of the Sessions Court’ shall be inserted.

24-B. *Amendment of section 325, Central Act V of 1898.*—In section 325 of the said Code, after the words ‘any district’, the brackets and words ‘(including the Presidency-town of Madras)’ and after the words ‘the Collector of such district’, the brackets and words ‘(or the Collector of Madras in the Presidency-town of Madras)’ shall be inserted.

24-C. *Amendment of section 326, Central Act V of 1898.*—In section 326 of the said Code, in sub-section (1), after the words ‘District Magistrate’, the words ‘or in the Presidency-town of Madras, the Chief Presidency Magistrate’ shall be inserted.

24-D. *Amendment of section 332, Central Act V of 1898.*—In section 332, sub-section (2) of the said Code, after the words ‘District Magistrate’, the words ‘or in the Presidency-town of Madras, the Chief Presidency Magistrate’ shall be inserted.”

The amendment was accepted.

Clauses 25 to 32 were adopted.

Clause 33.—The Chairman proposed the following amendment :—

For clause 33, substitute the following clause :—

“ 33. *Amendment of section 411-A, Central Act V of 1898.*—In section 411-A of the said Code—

(i) in sub-section (1), the words ‘in the exercise of its original criminal jurisdiction’ shall be omitted;

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(ii) in sub-section (2), for the words 'in the exercise of its original criminal jurisdiction', the words 'in a trial held by it' shall be substituted."

The amendment was accepted.

Clause 33 was adopted.

New clause 33-A.—The Chairman proposed the following amendment :—

After clause 33, the following shall be inserted :—

" 33-A. *Amendment of section 435, Central Act V of 1898.*—In section 435, sub-section (1), of the said Code, after the words 'any Sessions Judge' the words 'other than the Sessions Judge in the City of Madras' shall be inserted."

The amendment was accepted.

Clauses 34 to 38 were adopted.

Clause 39.—The Chairman suggested that in sub-section (2) of section 526 of the Code of Criminal Procedure, the words "other than the Court of a Presidency Magistrate" might have to be omitted. He said that the point would be examined and that, if necessary, an amendment would be moved later on or a new clause may be added.

Clause 39 was adopted.

Clauses 40 and 41 were adopted.

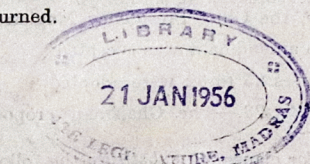
Clause 42.—Sri P. S. Krishnaswami Iyengar suggested that instead of the words "on the date of the commencement of this Act", the words "before the commencement of this Act" might be substituted. The suggestion was agreed to.

Clause 42, as amended, was adopted.

Sri V. Gurusundaram Row enquired whether there would be a right of appeal to the Sessions Court as in the mufassal. The Chairman replied that there would be a right of appeal from the Presidency Magistrate's Court only to the High Court.

The Committee decided that the Bill need not be republished and it authorized the Chairman to sign the Report.

The Committee then adjourned.



GOVERNMENT ESTATE,
MOUNT ROAD, MADRAS-2,
21st September 1955.

T. HANUMANTHAPPA,
Secretary to the State Legislature.